

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
1151 Punchbowl Street, Room 310  
Honolulu, Hawaii 96813

September 26, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

REQUEST FOR FINAL APPROVAL TO ADD A NEW  
SUBCHAPTER 5 TO SECTION 13-146, HAWAII  
ADMINISTRATIVE RULES (HAR), RELATING TO  
'IOLANI PALACE STATE MONUMENT.

STATUTE:                CHAPTERS 6E, 91, 171 and 184, Hawaii Revised Statutes

PURPOSE:              Submitted for your consideration and final approval is a new proposed Subchapter 5 to the Division of State Parks Hawaii Administrative Rules (HAR), Chapter 13-146, relating to 'Iolani Palace State Monument (Exhibit A).

REMARKS:              Currently, the 'Iolani Palace State Monument is subject to general State Park rules. The proposed amendment to the rules would establish new administrative rules specific to 'Iolani Palace State Monument that will help protect and preserve the historic and cultural significance of the Monument and meet the Monument's educational mission to preserve the character of the era of Hawaii's monarchy.

The State will benefit by improved management of the 'Iolani Palace State Monument. These proposed rules will empower the Department to more effectively ensure that this culturally sensitive and historically significant resource is open and available to all the people of Hawaii and visitors for generations to come. They create specific permitted and prohibited activities that will enable our Divisions of State Parks and Conservation and Resources Enforcement to better protect and preserve the character, buildings, cultural sites and grounds for future generations. They also do not infringe upon a person's constitutional right of free speech afforded them by the First Amendment of the United States Constitution.

We worked closely with the Department of the Attorney General in drafting the proposed rules. The proposed rules would be the Department's legal step specifically towards improving the management of 'Iolani Palace State Monument in light of the many influences and demands on the site. The program would have the legal means to help ensure that the sacred cultural sites, rare historic resources, and the mission of the entire 'Iolani Palace State Monument to maintain the historic character of the Monarchy era be preserved and protected.

The proposed Administrative Rules were the subject of a June 13, 2008 meeting of the Board of Land and Natural Resources (Exhibit B). The Land Board unanimously affirmed to the Department of Land and Natural Resources that a public hearing be scheduled as expeditiously as possible following approval from the Governor to conduct a public hearing.

The Small Business Regulatory Review Board has reviewed the proposed amendments and their June 23, 2008 letter states they do not believe there is any significant business impact.

We received the Governor's authorization to conduct a public hearing July 2, 2008. A public hearing notice (Exhibit C) appeared on July 12, 2008 in the Honolulu Advertiser, Honolulu Star Bulletin, The Maui News and The Garden Island newspapers. Notice re-appeared in the Honolulu Advertiser and Honolulu Star Bulletin newspapers on July 13, 2008. The notice appeared in the West Hawaii Today newspaper on July 14, 2008 and in the Hawaii Tribune-Herald on July 17, 2008.

Seven public hearings were held on six islands as follows: August 12, 2008 Kaunakakai, Molokai and Lanai City, Lanai; August 13, 2008 Kailua-Kona, Hawaii, Wailuku, Maui, and Honolulu, Oahu; August 14, 2008 Hilo, Hawaii; and August 18, 2008 Lihue, Kauai. A copy of the hearing program (Exhibit D) is attached for your reference. Approximately one hundred thirty persons attended the public hearings. Public comments were accepted up to September 5, 2008.

#### Summary of Comments

Public Hearing Testimony	5 in support	46 opposed	0 neither in support nor opposed
Written Comments	38 in support <sup>1</sup>	2 opposed	3 neither in support nor opposed

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<sup>1</sup> This number includes one letter that was submitted that lists the names and addresses of 166 persons in support.

### Summary of Comments Neither In Support Nor Opposed

We received three letters that did not specifically support or oppose the proposed rules.

Abigail Kawanakoa commented in part, "DLNR, as an agency of the State of Hawaii, really is limited in what it can do. These constraints have had the effect of undoing much of the good that the Department has done in conjunction with the Friends of Iolani Palace. There must be a more viable relationship between the Division of State Parks and the Friends of Iolani Palace to coordinate any and all functions."

An unsigned letter received by fax from a professor of law from the William S. Richardson School of Law, that commented on the importance of understanding the role that 'Iolani Palace and its grounds played for the King and Alii including its historic, religious, spiritual, and cultural significance of this site to Native Hawaiian people. He commented, "Any deterioration of this beautiful Palace and its Grounds would constitute a significant impoverishment of the cultural heritage of the Native Hawaiian people."

The written comments from the Chairman and Managing Trustee of the Queen Lili'uokalani Trust concluded in part, "we strongly urge DLNR Division of State Parks to carefully balance (a) between the need for reasonable rules to protect the property and persons of 'Iolani Palace; and (b) the need to preserve the right of Hawaiians and others to use the Palace and surrounding grounds as a traditional gathering place for their activities. To favor one extreme to the detriment of the other would likely invite and incite undue conflict. We are hopeful that you can achieve this balance."

### Summary of Comments Opposed

We received two letters opposed to the proposed rules for jurisdictional reasons.

The testimony of many at the public hearings opposed the proposed rules and felt that the State of Hawaii, Department of Land & Natural Resources is an agency of a government unlawfully occupying Hawaii and therefore has no standing to propose rules for 'Iolani Palace. Others felt that 'Iolani Palace should be self-governed by persons of Hawaiian ancestry. Some were opposed to 'Iolani Palace being open to tours to persons not of Hawaiian ancestry. Many expressed opposition to proposed rules regarding the requirement to purchase a ticket or obtain a permit to tour the Palace citing it should be free and/or unrestricted to persons of Hawaiian ancestry. Several persons who identified themselves as persons of Hawaiian ancestry commented that they considered the Palace their home and it is their right to enter it and other sites on the grounds without being subject to rules of the United States or Hawaii State government influence. Some persons commented that they cannot be prohibited from entering the burial mound area on the grounds because they are lineal descendants of those buried and the government cannot stop them from visiting their ancestors. Others commented rules are okay for persons not of Hawaiian ancestry and should not apply to persons of Hawaiian ancestry. Comments included concern that things have gotten to the point that the Department felt that

rules are required. Persons expressed dismay with the Palace being the site of a recent motion picture production and questioned the character of the film company and content of the film. Others expressed concern with the word "monument" as it is used in the term 'Iolani Palace State Monument because 'Iolani Palace is a revered palace and a living legacy, not a monument in the sense of a marker of some historical site. It was pointed out that 'Iolani Palace is not the only palace in the United States; it is the only palace of official royal residence. Comments were received that weapons should be allowed for reenactment or ceremonial events.

Many questioned The Friends of 'Iolani Palace organization and its role, and felt the proposed rules were favorable to them creating a double standard. There were also comments opposed to the provision that allows the Department to conditionally authorize consumption of alcoholic beverages on the grounds of 'Iolani Palace for The Friends of 'Iolani Palace events.

Among the documents submitted at the public hearings were some photographs related to a motion picture being filmed on the premises of 'Iolani Palace, a copy of the proposed rules that had been torn up and presented to the hearing officer, a media kit from the Kingdom of Hawaii, US Congressional acknowledgement and apology text, a rough draft dated April 16, 2008 of the House Journal of the Hawaii State House of Representatives Regular Session of 2008.

#### Summary of Comments in Support

Representatives from The Friends of Iolani Palace, Daughters of Hawaii, Royal Order of Kamehameha, and one other individual testified in favor of the proposed rules.

The Department received written comments from twenty-nine persons and eight organizations in support. One hundred sixty-six typed names and addresses listed as signers of a letter stated, "We support the Subchapter 5 that provides tighter security and restrictions." One letter of support was received after the September 5, 2008 comment period. There were nine separate letters of support from ten different persons that had the similar text including the one that was submitted after the September 5, 2008 deadline.

Many of the persons in support felt that 'Iolani Palace State Monument is an extraordinary landmark that deserves every protection the state can muster. One person commented, "The rules proposed by DLNR are in line with the way the Palace should be treated; and they reflect the decorum that was expected in the presence of a royal family." Another stated in part, "We believe that these rules help to keep the respect for our past history that is not practiced by everyone. We always believed that there had been rules in place to protect such treasures as the Palace and finding out that there has been nothing to protect the Palace, we find these proposed rules to be of the utmost importance to be put into place." Another commented, "Let us protect this landmark and its grounds from disrespectful intrusion and physical damage by individuals or groups who claim special privilege. The legacy of the Palace should be protected by legal means from those who attempt to desecrate it." A Palace volunteer wrote, "I am writing to express my strong support for the proposed establishment of a separate sub-chapter within the parks system governing the Iolani Palace grounds. . . . The rules proposed by the DLNR are in line with the

way the Palace should be treated . . .” A person commented, “But where the ‘Iolani Palace is concerned, we must support the administrative rules for the good of all Hawaiians and for the preservation of this most valuable edifice which houses priceless items of great importance, and the priceless memories and invaluable legacy of which our royal forefathers have left for us.” A handwritten letter stated, “Please make whatever changes are necessary to ensure the protection and preservation of Iolani Palace and its grounds. Loopholes and misinterpretations of rules should not allow a few individuals to harm this priceless piece of Hawaii’s past. The Palace should remain as an honored reminder to residents and visitors that the Kingdom of Hawaii had a proud history.” A person writing as a former historian, author of more than a dozen books on Hawai’i’s post-contact history, and exhibit designer at Hawai’i Maritime Center commented, “I would like to add my voice to those supporting your proposed new rules regarding ‘Iolani Palace and her grounds.” A person who identified himself as Kanaka Maoli wrote of his “outrage at the acts committed by the latest Sovereign group that attempted to take over Iolani Palace . . . This group’s disrespectful behavior is not of true Kanaka Maoli and I therefore raise my voice to say NO MORE nonsense and YES, I am in agreement that tighter security and restrictions are needed to protect Iolani Palace. I have reviewed this subchapter 5 and am grateful that action has been taken to keep the “nuts” out of this sacred ground. Please continue on your course of action as stated.”

Among the eight organizations submitting written comments in support were the Historic Hawaii Foundation, The Friends of ‘Iolani Palace, Mission Houses Museum, and the Bishop Museum. The Historic Hawaii Foundation commented in part, “‘Iolani Palace State Monument should be treated with special care, dignity, and respect. Adopting specific rules for its use and enjoyment is a necessary and logical step to protect this important historic resource. The proposed administrative rules strike an appropriate balance between preservation and use, protection of civil rights and safety of persons and property.” The Friends of Iolani Palace submitted comments in full support of the proposed new administrative rules. Comments from the University of Hawaii at Manoa, College of Tropical Agriculture and Human Resources included, “We *must* protect ‘Iolani Palace and prevent it from being a political target. We must protect those who work at ‘Iolani Palace. I thank you for the proposed rules. They must be accepted and actively enforced, immediately.” Comments from a professor of American studies and director of the graduate certificate program in historic preservation at the University of Hawai’i at Manoa’s College of Arts and Humanities include, “Thank you for considering the proposed new rules, which will offer better guidelines for the use of the Palace and the respect due to its grounds” The Mission Houses Museum administrator commented in part, “The proposed rules for Iolani Palace provide the state with the necessary structure to protect this important site not just for today’s generation but also for those generations who will follow us. I support the new rules being proposed. I believe these new rules will improve the state’s ability to use the Palace safely and provide the respect due the place it has in Hawai’i’s story.” Another letter included, “All those who love the Palace should embrace and welcome these rules as the state’s efforts to protect the Palace more diligently regardless of one’s opinion on the issue of authority.” A senior vice president and chief operating officer from the Bishop Museum wrote, “Thank you for proposing these rules to help protect Iolani Palace. These rules should be implemented as soon as possible and strictly enforced to ensure the safety and security of property and personnel at the Palace.”

### Proposed Changes After Receiving Public Comment

Based upon the testimony received we have made four non-substantive changes to the proposed rules that were the subject of the public hearings. The changes are as follows:

§13-146-69 Purpose., the second sentence of the fourth paragraph stated, “This is the only palace in the United States” has been changed to “This is the only palace of official royal residence in the United States.” This is in response to testimony received as a matter of clarification.

§13-146-70 (b) (7) ‘Iolani Palace State Monument restrictions., stated, “signs or flags of a size greater than twelve (12) square feet”; has been changed to “signs of a size greater than twelve (12) square feet.” This will not restrict the size of flags currently in use at the palace.

§13-146-70 (b) (12) ‘Iolani Palace State Monument restrictions., stated, “weapons of any type.”, has been changed to “weapons of any type, except those specifically permitted by the Department for ceremonial and reenactment events.”

§13-146-70 (e) (1) ‘Iolani Palace State Monument restrictions., stated, “paid admission ticket issued by The Friends of ‘Iolani Palace.”, has been changed to “admission ticket issued by The Friends of ‘Iolani Palace.” This will allow the current practice of admitting Hawaii residents free on designated Kamaaina Sundays or during other special events to continue.

The Department of the Attorney General has approved the proposed rules as to form, including the changes noted above as being non-substantive.

### Impacts

Short-term impacts on the public are expected to be positive. The public expects the Department to have the means to regulate the ‘Iolani Palace State Monument to continue to make it available to the public while also protecting and preserving it.

Long-term impacts on the public should be positive, as the unique irreplaceable resources are protected from culturally insensitive activities and continue to keep the site open as a public gathering place. This protection of the resources is significant to all of Hawaii and is part of what makes Hawaii a unique destination and supports our valued visitor industry. It is prudent for the State to have these proposed rules adopted to ensure that the State’s interests are preserved. We do not believe that there is any other reasonable alternative.

**RECOMMENDATION:**

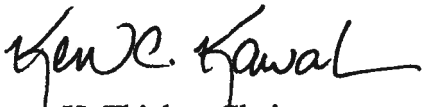
1. That the Board grant final approval of new Hawaii Administrative Rules, Chapter 13-146 relating to 'Iolani Palace State Monument as approved to form by the Department of the Attorney General with the non-substantive changes noted above.
2. Authorize the Chairperson to sign the Administrative Rules when finalized in the Ramseyer format.
3. Authorize the Chairperson to recommend approval of the proposed rules to the Governor.

Respectfully submitted,



Daniel Quinn, Administrator  
Division of State Parks

**APPROVED FOR SUBMITTAL:**



*for* Laura H. Thielen, Chairperson  
Board of Land and Natural Resources

**Attached:**

Exhibit A - Chapter 13-146, Subchapter 5 with non-substantive changes.

Exhibit B - Item E-2, from the June 13, 2008 meeting of the Board of Land & Natural Resources.

Exhibit C - Public Hearing Notice

Exhibit D - Public Hearing Program

## Subchapter 5 'Iolani Palace State Monument.

§13-146-69 Purpose. The purpose of this subchapter is to provide rules specific to the 'Iolani Palace State Monument in order to recognize, protect, and preserve the historic and cultural significance of the Monument and to meet the Monument's educational mission to preserve the character of the era of Hawaii's monarchy.

'Iolani Palace State Monument ('Iolani Monument) consists of 'Iolani Palace, Barracks, Coronation Pavilion, Kanaina Building (Old Archives Building), Kekauluohi Building (State Archives Building) and Grounds consisting of 11 acres of land, including the perimeter wall and wrought iron fence bordered by King Street, Likelike Street, Hotel St. Mall and Richards Street.

'Iolani Monument is one of the most important historical and cultural resources in Hawaii. Before the arrival of the missionaries in the 1820's, a Hawaiian temple or heiau, known as "Kaahimaui," was sited in this area. Later, a small mausoleum was built on the grounds to house the remains of King Liholiho and Queen Kamamalu. While the remains of these Royalty were moved to their new resting place in 1865, accounts state that the bones of certain chiefs remain on the site. King Kalakaua, out of respect for this sacred and hallowed place, raised a mound over it. Hawaiian culture demands great respect and care for the location of ancient burial sites of Hawaiian chiefs.

In 1882, 'Iolani Palace was built and served to house Hawaii's last Monarchs, King Kalakaua and Queen Lili'uokalani. This is the only palace of official royal residence in the United States. It is listed in the National Register of Historic Places and designated a National Historic Landmark. The State designated the area a Monument in recognition of its historic importance, and to utilize these unique resources to educate and promote awareness of the historic and cultural character of the era of the Hawaiian monarchy.

The Friends of 'Iolani Palace, a non-profit organization which acts as the State's steward of the Palace under a lease agreement, holds the official designation as the State of Hawaii Museum of Monarchy History. Their mission is, "To preserve, restore, interpret, share and celebrate the unique cultural, historic and spiritual qualities of 'Iolani Palace and its Grounds for the benefit of Native Hawaiians, the People of Hawaii and the world."

'Iolani Monument also includes the Kekauluohi Building, the Hawaii State Archives Building. The Archives houses thousands of priceless and irreplaceable records generated by the State and the former territorial government and monarchy.

'Iolani Monument is a public gathering site. People are welcome to gather on the Grounds and to have limited and managed access to the Palace, Archives, Barracks and Coronation Pavilion. However, the sacred cultural sites, the rare historic resources, and the mission of the entire 'Iolani Monument to maintain the historic character of the Monarchy era, requires specific rules dedicated to protect and preserve the character, buildings, cultural sites and grounds for future generations. These rules serve the

significant government interest of protecting the Monument and the safety of the persons who visit it. The Monument and the valuable historic property and records it holds must be preserved for the use and enjoyment of all of the people of Hawaii and visitors to the islands for generations to come.

(Auth: HRS §§6E-7, 6E-35, 171-6, 184-5) (Imp: HRS §§6E-7, 6E-35, 171-6, 184-5)

**§13-146-70 ‘Iolani Palace State Monument restrictions.**

(a) All other rules in this chapter shall apply to ‘Iolani Palace State Monument except as provided herein. These rules do not infringe upon any rights or privileges to gather and express opinion as provided by Chapter 13-7. However, these rules govern the time, place and manner in which such activities may occur for the purposes stated herein.

(b) The following shall be prohibited:

- 1) obstructing public access to the grounds, buildings, or structures;
- 2) access on or in the Burial Mound located in the Diamond Head-Makai quadrant, as designated on the map attached as Exhibit 1;
- 3) unauthorized occupation of any structure on the grounds, including but not limited to, ‘Iolani Palace, Coronation Pavilion, Kanaina Building, ‘Iolani Barracks Building and the Kekauluohi (Archives) Building;
- 4) entering or remaining on the grounds during the hours they are closed, provided that persons with parking permits issued by the state Department of Accounting and General Services may enter and exit during the hours the grounds are closed for the purposes of parking and removing their cars;
- 5) engaging in any activity so as to obstruct or impede pedestrians or vehicles, or harass or intimidate visitors, volunteers or employees traversing or on the premises either verbally or with physical contact or barriers; including but not limited to hindering or interfering with the public’s use of one or more of the entry gates to the premises or building entrances;
- 6) interference with the public’s use of the premises or facilities, including but not limited to, the interpretive services, visitor services, government activities, enjoyment of the premises and programs by the general public;
- 7) signs of a size greater than twelve (12) square feet;
- 8) signs or flags left in place on the grounds for duration of greater than eight (8) hours;
- 9) taking showers or bathing;
- 10) sale or consumption of alcoholic beverages, with the sole exception that the Friends of Iolani Palace may allow alcohol at permitted events for the purpose of meeting their mission, subject to the conditions and insurance requirements established by the department under a lease agreement or permit;
- 11) gathering or collecting any material, natural or man-made, on the grounds or within the buildings;

- 12) weapons of any type, except those specifically permitted by the Department for ceremonial and reenactment events.
- 13) climbing, trimming or cutting any tree.
- 14) washing and polishing vehicles.

(c) The following activities and items shall be permitted but only with a permit issued by the department and subject to the limitations contained in this Subchapter:

- 1) activities with permits issued under chapter 13-7. Chapter 13-7 permits for the use of an area of the 'Iolani Monument shall be subject to all of the provisions of section §13-146-71 and section §13-146-72.
- 2) amplified music, amplified noise, or any kind of loudspeaker in excess of the noise limits of this Subchapter;
- 3) barbeques and cooking;
- 4) constructing, manufacturing, or repairing anything on the premises;
- 5) animals, including animals on leashes, except for service, guide, or signal animals;
- 6) weddings;
- 7) overnight parking, unless the person has a parking permit for the area issued by the Department of Accounting and General Services;
- 8) use of an artificial light source on the grounds;
- 9) tents, awnings or similar structures;
- 10) operating a generator;
- 11) signs, flags or bunting applied to any building, wall, fence, or gate provided that the department may require insurance prior to authorizing posting on any historical structure;
- 12) portable toilets.

(d) The department shall issue permits for the Monument on a first come first serve basis. In the event multiple permits are requested, the department shall accommodate the requests provided space is available and the historic structures and their contents are not jeopardized. The department shall issue permits without unreasonable delay, but no more than two business days after receipt of any permit application for a HAR 13-7 activity at 'Iolani Monument, and no more than forty-five days for other permits.

(e) Entry to 'Iolani Palace shall be only by:

- 1) admission ticket issued by the Friends of 'Iolani Palace.
- 2) permit issued by the department.
- 3) a representative of the department or an authorized representative of the Friends of 'Iolani Palace.

(f) Public parking on the grounds of 'Iolani Palace State Monument may be restricted by the department due to activities on the grounds or by the Department of Accounting and General Services for maintenance purposes.

(Auth: HRS §§6E-7, 6E-35, 171-6, 184-5) (Imp: HRS §§6E-7, 6E-35, 171-6, 184-5)

**§13-146-71 'Iolani Monument Permit Limits.** Permits for items or activities listed under subsection 13-146-70(c) and any permits issued for the 'Iolani Monument under Title 13, Chapters 7 and 146, Hawaii Administrative Rules, shall be subject to the following limitations:

(a) Time Limits: permits shall not exceed a period of three (3) days in any seven (7) day period, with the sole exception that the Friends of 'Iolani Palace may allow signs, flags or bunting to be applied to the historic structures for longer periods as permitted by the department for the purpose of meeting their mission, subject to the conditions and insurance requirements established by the department under a lease agreement or permit. An individual or group may be limited in the number of permits issued in a given month based on the ability to accommodate multiple permit requests. Permits shall not be granted during the hours the Monument is closed, with the exception of state holidays and Sundays when permits may be issued for educational and commemorative activities;

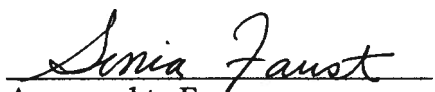
(b) Noise Limits: Amplified music or noise may be limited to no more than 60 dba (decibels "A" weighted) during the period of tours of 'Iolani Palace and the Royal Hawaiian Band concerts on the premises, and no more than 75 dba (decibels "A" weighted) at any other time period;

(c) Location Limits: Permits issued for the 'Iolani Monument shall be limited to an area designated by the department. Permits issued under Title 13 Chapter 7 for the 'Iolani Monument shall be limited to the two Ewa quadrants on Monday-Thursday, and to the Ewa-Mauka quadrant on Fridays, as designated on the map attached as Exhibit 1, in order to avoid interference with the 'Iolani Palace tours and the Royal Hawaiian Band concerts.

(Auth: HRS §§6E-7, 6E-35, 171-6, 184-5) (Imp: HRS §§6E-7, 6E-35, 171-6, 184-5)

§13-146-72 Penalties. Permits issued under Title 13, Chapters 7 and 146, Hawaii Administrative Rules, for 'Iolani Monument may be subject to permit revocation if the terms and conditions of the permit are violated. Persons who have violated permit conditions or the rules may be ordered by the department to leave the Monument. Permittees who have violated permit conditions or the rules may be denied future permits for 'Iolani Monument or subject to the imposition of additional permit restrictions.

(Auth: HRS §§6E-7, 6E-35, 171-6, 184-5) (Imp: HRS §§6E-7, 6E-35, 171-6, 184-5)

  
Approved to Form  
Department of Attorney General

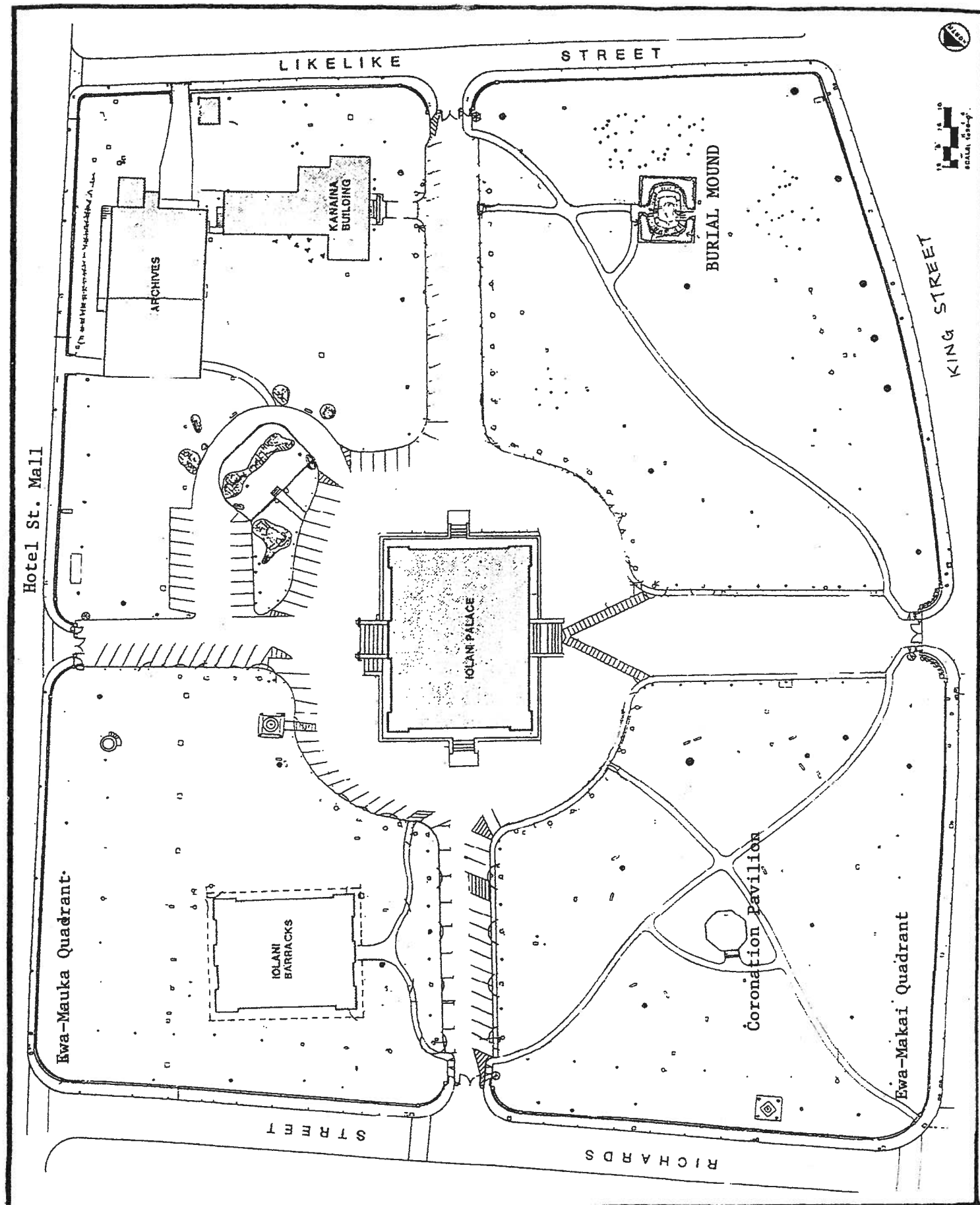


Exhibit 1  
June 13, 2008

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
1151 Punchbowl Street, Room 310  
Honolulu, Hawaii 96813

June 13, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, HI

REQUEST FOR APPROVAL TO CONDUCT PUBLIC  
HEARINGS TO AMEND HAWAII ADMINISTRATIVE  
RULES CHAPTER 13-146, HAWAII STATE PARK  
SYSTEM, TO ADD A NEW SUBCHAPTER 5  
RELATING TO IOLANI PLACE STATE MONUMENT.

STATUTE:

Chapter 184, Hawaii Revised Statutes

PURPOSE:

Amend administrative rules to allow the division the ability to effectively manage the 'Iolani Palace State Monument. The proposed new subchapter is to provide rules specific to the 'Iolani Palace State Monument in order to recognize, protect and preserve the historic and cultural significance of the Monument and to meet the Monument's educational mission to preserve the character of the era of Hawaii's monarchy.

REMARKS:

'Iolani Monument is a public gathering site. People are welcome to gather on the Grounds and to have limited and managed access to the Palace and Archives. However, the sacred cultural sites, the rare historic resources, and the mission of the entire 'Iolani Monument to maintain the historic character of the Monarchy era, requires specific rules dedicated to protect and preserve the character, buildings, cultural sites and grounds for future generations.

**RECOMMENDATIONS:**

**That the Board:**

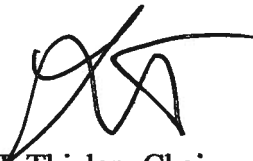
1. Grant approval to conduct a public hearing on the island of Oahu on the proposed amendment of adding a new subchapter 5 to Section 13-146, Hawaii Administrative Rules relating to 'Iolani Palace State Monument.
2. Affirm to the Department to schedule a public hearing on these proposed rules as expeditiously as possible following the Governor's approval to conduct a public hearing.
3. Authorize the Chairperson to appoint a hearing master to conduct a public hearing to receive written and verbal testimony concerning the proposed amendments.

Respectfully submitted,



Daniel S. Quinn  
Administrator

**APPROVED FOR SUBMITTAL**



Laura H. Thielen, Chairperson

## Subchapter 5 'Iolani Palace State Monument.

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In 1882, 'Iolani Palace was built and served to house Hawaii's last Monarchs, King Kalakaua and Queen Lili'uokalani. This is the only palace in the United States. It is listed in the National Register of Historic Places and designated a National Historic Landmark. The State designated the area a Monument in recognition of its historic importance, and to utilize these unique resources to educate and promote awareness of the historic and cultural character of the era of the Hawaiian monarchy.

The Friends of 'Iolani Palace, a non-profit organization which acts as the State's steward of the Palace under a lease agreement, holds the official designation as the State of Hawaii Museum of Monarchy History. Their mission is, "To preserve, restore, interpret, share and celebrate the unique cultural, historic and spiritual qualities of 'Iolani Palace and its Grounds for the benefit of Native Hawaiians, the People of Hawaii and the world."

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significant government interest of protecting the Monument and the safety of the persons who visit it. The Monument and the valuable historic property and records it holds must be preserved for the use and enjoyment of all of the people of Hawaii and visitors to the islands for generations to come.

§13-146-70 'Iolani Palace State Monument restrictions.

(a) All other rules in this chapter shall apply to 'Iolani Palace State Monument except as provided herein. These rules do not infringe upon any rights or privileges to gather and express opinion as provided by Chapter 13-7. However, these rules govern the time, place and manner in which such activities may occur for the purposes stated herein.

(b) The following shall be prohibited:

- 1) obstructing public access to the grounds, buildings, or structures;
- 2) access on or in the Burial Mound located in the Diamond Head-Makai quadrant, as designated on the map attached as Exhibit 1;
- 3) unauthorized occupation of any structure on the grounds, including but not limited to, 'Iolani Palace, Coronation Pavilion, Kanaina Building, 'Iolani Barracks Building and the Kekauluohi (Archives) Building;
- 4) entering or remaining on the grounds during the hours they are closed, provided that persons with parking permits issued by the state Department of Accounting and General Services may enter and exit during the hours the grounds are closed for the purposes of parking and removing their cars;
- 5) engaging in any activity so as to obstruct or impede pedestrians or vehicles, or harass or intimidate visitors, volunteers or employees traversing or on the premises either verbally or with physical contact or barriers; including but not limited to hindering or interfering with the public's use of one or more of the entry gates to the premises or building entrances;
- 6) interference with the public's use of the premises or facilities, including but not limited to, the interpretive services, visitor services, government activities, enjoyment of the premises and programs by the general public;
- 7) signs or flags of a size greater than twelve (12) square feet;
- 8) signs or flags left in place on the grounds for duration of greater than eight (8) hours;
- 9) taking showers or bathing;
- 10) sale or consumption of alcoholic beverages, with the sole exception that the Friends of Iolani Palace may allow alcohol at permitted events for the purpose of meeting their mission, subject to the conditions and insurance requirements established by the department under a lease agreement or permit;
- 11) gathering or collecting any material, natural or man-made, on the grounds or within the buildings;
- 12) weapons of any type.
- 13) climbing, trimming or cutting any tree.

14) washing and polishing vehicles.

(c) The following activities and items shall be permitted but only with a permit issued by the department and subject to the limitations contained in this Subchapter:

- 1) activities with permits issued under chapter 13-7. Chapter 13-7 permits for the use of an area of the 'Iolani Monument shall be subject to all of the provisions of section §13-146-71 and section §13-146-72.
- 2) amplified music, amplified noise, or any kind of loudspeaker in excess of the noise limits of this Subchapter;
- 3) barbeques and cooking;
- 4) constructing, manufacturing, or repairing anything on the premises;
- 5) animals, including animals on leashes, except for service, guide, or signal animals;
- 6) weddings;
- 7) overnight parking, unless the person has a parking permit for the area issued by the Department of Accounting and General Services;
- 8) use of an artificial light source on the grounds;
- 9) tents, awnings or similar structures;
- 10) operating a generator;
- 11) signs, flags or bunting applied to any building, wall, fence, or gate provided that the department may require insurance prior to authorizing posting on any historical structure;
- 12) portable toilets.

(d) The department shall issue permits for the Monument on a first come first serve basis. In the event multiple permits are requested, the department shall accommodate the requests provided space is available and the historic structures and their contents are not jeopardized. The department shall issue permits without unreasonable delay, but no more than two business days after receipt of any permit application for a HAR 13-7 activity at 'Iolani Monument, and no more than forty-five days for other permits.

(e) Entry to 'Iolani Palace shall be only by:

- 1) paid admission ticket issued by the Friends of 'Iolani Palace.
- 2) permit issued by the department.
- 3) a representative of the department or an authorized representative of the Friends of 'Iolani Palace.

(f) Public parking on the grounds of 'Iolani Palace State Monument may be restricted by the department due to activities on the grounds or by the Department of Accounting and General Services for maintenance purposes.

**§13-146-71 'Iolani Monument Permit Limits.** Permits for items or activities listed under subsection 13-146-70(c) and any permits issued for the 'Iolani Monument under Title 13, Chapters 7 and 146, Hawaii Administrative Rules, shall be subject to the following limitations:


(a) **Time Limits:** permits shall not exceed a period of three (3) days in any seven (7) day period, with the sole exception that the Friends of 'Iolani Palace may allow signs, flags or bunting to be applied to the historic structures for longer periods as permitted by the department for the purpose of meeting their mission, subject to the conditions and

insurance requirements established by the department under a lease agreement or permit. An individual or group may be limited in the number of permits issued in a given month based on the ability to accommodate multiple permit requests. Permits shall not be granted during the hours the Monument is closed, with the exception of state holidays and Sundays when permits may be issued for educational and commemorative activities;

(b) Noise Limits: Amplified music or noise may be limited to no more than 60 dba (decibels "A" weighted) during the period of tours of 'Iolani Palace and the Royal Hawaiian Band concerts on the premises, and no more than 75 dba (decibels "A" weighted) at any other time period;

(c) Location Limits: Permits issued for the 'Iolani Monument shall be limited to an area designated by the department. Permits issued under Title 13 Chapter 7 for the 'Iolani Monument shall be limited to the two Ewa quadrants on Monday-Thursday, and to the Ewa-Mauka quadrant on Fridays, as designated on the map attached as Exhibit 1, in order to avoid interference with the Iolani Palace tours and the Royal Hawaiian Band concerts;

§13-146-72 Penalties. Permits issued under Title 13, Chapters 7 and 146, Hawaii Administrative Rules, for 'Iolani Monument may be subject to permit revocation if the terms and conditions of the permit are violated. Persons who have violated permit conditions or the rules may be ordered by the department to leave the Monument. Permittees who have violated permit conditions or the rules may be denied future permits for 'Iolani Monument or subject to the imposition of additional permit restrictions.



Approved for Public Hearing  
Department of Attorney General

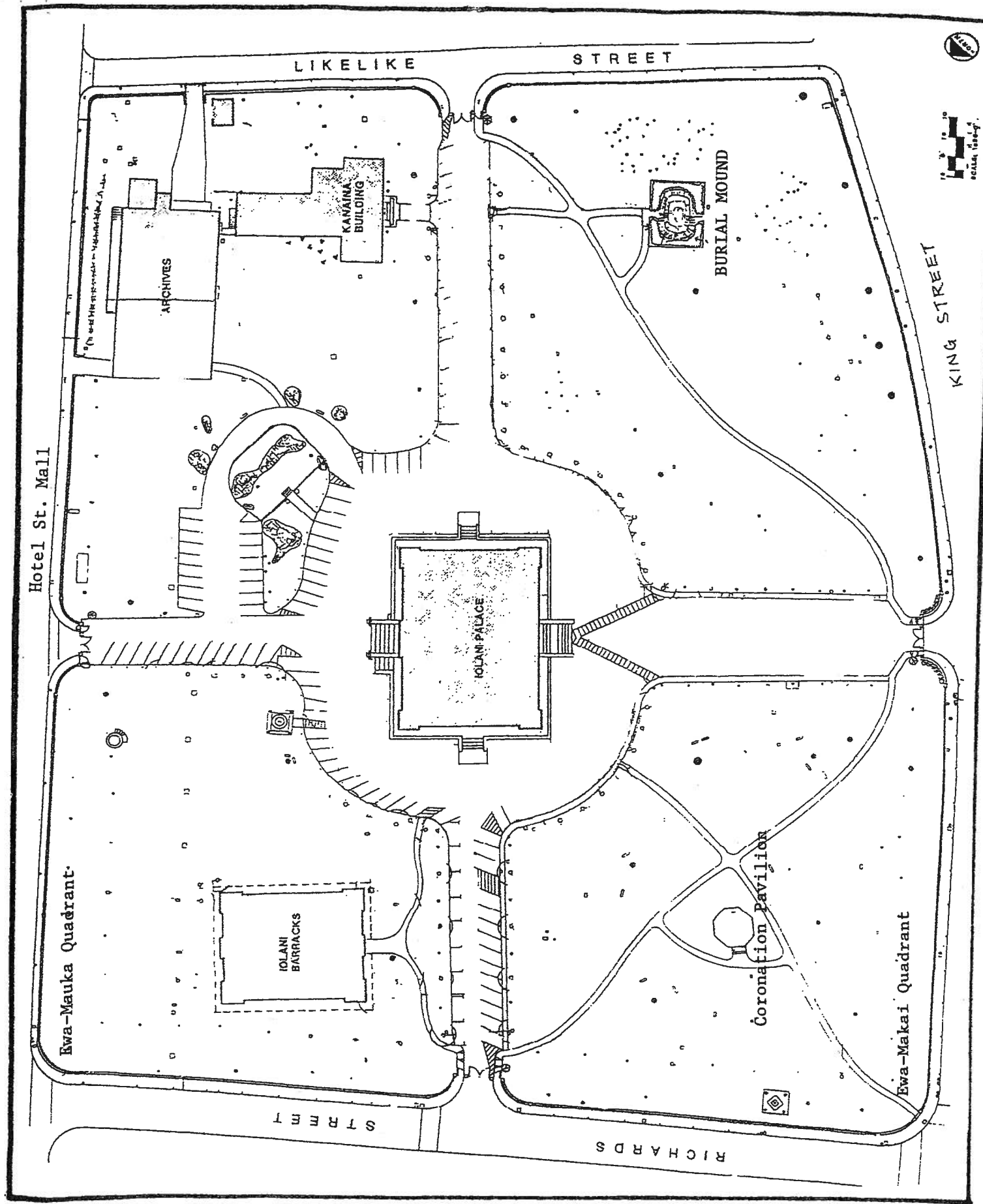


Exhibit 1  
June 13, 2008

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY – JUNE 13, 2008  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HI 96813

Chairperson Laura Thielen called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

**MEMBERS**

Laura Thielen  
Ron Agor  
Tim Johns  
Taryn Schuman

Rob Pacheco  
Jerry Edlao  
Dr. Sam Gon

**STAFF**

Dan Quinn, SP  
Kaleo Paik, HP  
Dan Polhemus, DAR  
Bin Li, ADMIN  
Sam Lemmo, OCCL  
Edwin Matsuda, ENG

Paul Conry, DOFAW  
Morris Atta, LD  
Gary Moniz, DOCARE  
Lila Loos, DP  
Denise Manuel, ENG

**OTHERS**

Randy Ishikawa, Deputy AG  
~~Walter, Chong, D-7~~  
Vincent Collins, F-1  
Kaneakua Schultz, F-2  
Dave Leonard, C-2  
Evelyn Cox, F-5  
Marti Townsend, F-5

Kippen deAlba Chun, E-2  
~~Robert Chong, D-7~~  
Mahina Duarte, F-2  
Heidi Guth, F-2  
David Lonborg, F-4  
Todd Aeby, F-5

{Note: language for deletion is [bracketed], new/added is underlined}

**Item A-1      Amend Item E-4 title of the January 25, 2008 Minutes.**

Member Schuman recused on Items A-2, A-3 and A-4.

**Item A-2      Amend Item D-10 of the February 22, 2008 Minutes.**

**Item A-3      April 25, 2008 Minutes.**

**Item A-4      May 8, 2008 Briefing Minutes.**

**Item A-5      May 9, 2008 Minutes.**

**Approved as amended (Johns, Edlao)**

**Item A-6      May 23, 2008 Minutes. (TO BE DISTRIBUTED.)**

**Deferred (Johns, Edlao) Not ready.**

**Item E-2      Request for Approval to Conduct Public Hearings to Amend Hawaii Administrative Rules Chapter 13-146, Hawaii State Parks System, to add a New Subchapter 5 Relating to Iolani Palace State Monument  
(TO BE DISTRIBUTED)**

Submittal was distributed to the Board members and the deputy attorney general prior to the Board Meeting

Dan Quinn, Administrator for State Parks, requested approval and gave background regarding inappropriate activities occurring on the palace grounds.

Chair Thielen asked after the public hearings and if it receives approval by the governor State Parks will bring it to the Board for final approval which Mr. Quinn acknowledged.

Member Edlao inquired if there will be neighbor island meetings or whether it will be publicized. Mr. Quinn replied this is a single park issue instead of statewide and something will be published with the meeting date. Member Gon noted that this issue will be a concern statewide.

Kippen deAlba Chu, Executive Director for Iolani Palace, briefed the Board on the Iolani Palace history and their work's importance to school children and the public. They support the approval of the proposed rules.

Member Johns asked whether the Attorney General's office has been working with State Parks on the drafting of these rules where first amendment rights and other rights protected by the Constitution are addressed in the proposed rules. Mr. Quinn replied daily.

Member Edlao asked about the Iolani Palace permit limits and whether it is done administratively or it come to the chair. Mr. Quinn stated it comes to the chair and he explained the different types of permits.

Chair Thielen asked further restrictions can't be added to these rules than what is already prescribed. Mr. Quinn agreed. The turn around time is 2 days for first amendment type permits. Within the rules there is a 45 day lead time on other significant events for special use permits.

**Unanimously approved as submitted (Johns, Gon)**

**Item E-1 Request for Approval to Solicit and Award Concessions for Gift Shops, Vending Machines, and Mobile Food Operations in Selected State Parks.**

Dan Quinn for State Parks amended recommendation #3 by striking "continuation of" and adding at the end of that first sentence "for a maximum of one year revocable on 30 days notice," per the deputy AG's advice. Also if there are two Exhibit Bs to delete one. He gave more background and explained that \$1 million was cut from a budget of \$6 million. This will help generate more revenue to go into their special fund to meet the shortfall and the high cost of utilities. The asterisked items are existing concessions, machines or gift shops.

**The Board:**

**Amended staff's recommendation #3 by striking [continuation of] and at the end of the first sentence add for a maximum of one year revocable on 30 days notice. If there is second exhibit B delete one.**

**Unanimously approved as amended (Pacheco, Gon)**

**Item C-3 Request Approval of Contract with Patrick and Sheila Conant to Participate in the State Forest Stewardship Program.**

Paul Conry, Administrator for Division of Forestry & Wildlife (DOFAW) reported background and recommended approval.

Member Gon asked if this is the first time these funds are going to individuals where Mr. Conry replied it has gone to other private landowners.

Sheila Conant was here to answer questions.

Member Gon commented he can't think of better qualified people. Member Pacheco was excited about this and hope this is a trend.

**Unanimously approved as submitted (Pacheco, Gon)**

**Public Hearing Notice**  
**For Proposed Administrative Rules for 'Iolani Palace State Monument**

The Department of Land and Natural Resources (DLNR) will hold public hearings to amend Hawaii Administrative Rules (HAR). Currently, the 'Iolani Palace State Monument is subject to general State Park rules. The proposed amendment to the rules would establish new administrative rules specific to 'Iolani Palace State Monument that will help protect and preserve the historic and cultural significance of the Monument and to meet the Monument's educational mission to preserve the character of the era of Hawaii's monarchy.

The hearings are scheduled as follows:

Tuesday, August 12, 2008, 6:30 pm, Kaunakakai Elementary School Cafeteria, 30 Ailoa Street, Kaunakakai, HI 96748

Tuesday, August 12, 2008, 5 pm, Lanai High and Elementary School, Room L16, 555 Fraser Ave., Lanai City, HI 96763

Wednesday, August 13, 2008, 6:30 pm, DLNR Boardroom 132, 1151 Punchbowl Street, Honolulu, HI 96813

Wednesday, August 13, 2008, 6:30 pm, Events Pavilion, Old Kona Airport Park, 75-5480 Kuakini Highway, Kailua-Kona, HI 96740

Wednesday, August 13, 2008, 6:30 pm, Maui County Planning Department Conference Room, 1<sup>st</sup> floor, 250 South High Street, Wailuku, HI 96793

Thursday, August 14, 2008, 6:30 pm, Conference Rooms A, B, & C, State Office Building, 75 Aupuni Street. Hilo, HI 96720

Monday, August 18, 2008, 6:30 pm, State Office Building 2<sup>nd</sup> Floor Conference Room, 3060 Eiwa Street, Room 209, Lihue, HI 96766

All interested persons are urged to attend a public hearing to present relevant information and individual opinion for the DLNR to consider. Persons unable to attend or wishing to present additional comments, may mail written testimony by Friday, September 5, 2008 to Administrator, DLNR Division of State Parks, 1151 Punchbowl Street, Room 310, Honolulu, HI 96813.

Any person requiring a special accommodation (i.e., large print materials, sign language interpreters) is asked to contact Steve Thompson at (808) 587-0303 by August 5, 2008. The proposed rules are on the internet at [www.hawaiistateparks.org/administrative/index.cfm](http://www.hawaiistateparks.org/administrative/index.cfm). A copy of the proposed rule changes will be mailed at no charge upon receipt of verbal or written request to Administrator, DLNR Division of State Parks, 1151 Punchbowl Street, Room 310, Honolulu, HI 96813.

Approved/Disapproved—

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson  
Board of Land and Natural Resources 

## INTRODUCTION

It is now \_\_\_\_\_ p.m., August \_\_\_\_\_, 2008 and the Public Hearing is called to order.

My name is \_\_\_\_\_ and this is \_\_\_\_\_ of the Division of State Parks. I/we have been appointed by the Chairperson of the Department of Land and Natural Resources to function as the hearings officer(s) of this public hearing to consider testimony on the proposed adoption of Chapter 13-146, Hawaii Administrative Rules, entitled "Subchapter 5 'Iolani Palace State Monument".

Let me explain the procedure to be followed this evening. This is a formal Public Hearing on the Administrative Rules of the Department of Land and Natural Resources.

I hope you have all signed in. If not, please do so on the sign-in sheets so that we will have a complete record of all persons present this evening.

Those who wish to present testimony must also sign up on the sheet labeled "Please Sign in To Provide Testimony". I will call for your testimony in the order in which the names are listed. Also, please turn in any written testimony you may have prepared.

## BACKGROUND

I would like to take a few minutes to bring you up to date on the purpose of the proposed administrative rules that have led to tonight's hearing.

Currently general State Park rules that apply to all State parks also apply to the 'Iolani Palace State Monument. The purpose of establishing a new administrative rule subchapter is to provide rules specific to the 'Iolani Palace State Monument in order to recognize, protect and preserve the historic and cultural significance of the Monument and to meet the Monument's educational mission to preserve the character of the era of Hawaii's monarchy.

'Iolani Monument is a public gathering site. People are welcome to gather on the Grounds and to have limited and managed access to the Palace and Archives. However, the sacred cultural sites, the rare historic resources, and the mission of the entire 'Iolani

Monument to maintain the historic character of the Monarchy era, requires specific rules dedicated to protect and preserve the character, buildings, cultural sites and grounds for future generations.

Copies of the proposed new rules are available at the door this evening. Please take a copy of the rules. During the course of this hearing, we wish to collect views, comments and testimonies on the new rules.

#### NOTICE OF PUBLIC HEARING

Notices of tonight's public hearing appeared on July 12, 2008 in the Honolulu Advertiser, Honolulu Star Bulletin, Maui News and The Garden Island newspapers. Notice re-appeared in the Honolulu Advertiser and Honolulu Star Bulletin newspapers on July 13, 2008. The notice appeared in the West Hawaii Today newspaper on July 14, 2008 and in the Hawaii Tribune-Herald on July 17, 2008. The Notice of Public Hearing as it appeared in the newspapers is posted for your examination and confirmation. Copies of the Notice of Public Hearing are also available for your reference on the table.

#### PROCEDURES DURING HEARING

In the conduct of tonight's hearing, we will proceed as follows:

- (1) First, I will read the proposed Administrative Rules.
- (2) Then, I will call on those who signed the list to testify. After the presentation of testimonies by those on the list, the floor will be opened to anyone else who did not have the opportunity to speak. Please keep your testimonies short and on the subject to allow others an opportunity to participate. (**Optional:** May I suggest a 3 minute limit because there are so many of you.)
- (3) If there should be any questions on the Rules, and at such time when the floor is opened, please raise your hand to be recognized. When given the floor, please present your name and questions clearly. We ask that you do this because the Hearing is being recorded. Also, for each and every time that the floor is given to you, please state your name clearly before asking any questions, or providing any comment or testimony. It is important

that you do this; otherwise, we may not be able to identify who the speaker may have been.

- (4) I would also like to remind everyone that this is not a courtroom, adversarial type proceeding, but a public hearing to gather comments and testimonies. Thus, cross-examination of testifiers or party-to-party rebuttals will not be permitted. Should any questions arise in the course of the hearing, please direct your questions to me, and if deemed relevant or pertinent, I will re-direct the question to the appropriate person. In other words, we will not allow any person-to-person arguments during the course of the hearing. We expect that there will be differing opinions and we should all respect them. We want to hear them so we can understand your concerns. We will proceed with reading the proposed Administrative Rules for the record. Please refer to your copy of the Rules.

#### TESTIMONIES

I have before me, the list of persons who want to present testimony on these Rules.

I will now call on each person to testify in the order listed.

Please have a seat before the microphone, state your name, and if you represent an organization also state the name of your organization, and present your testimony.

(1)

(2)

(3), etc.

Is there anyone here who did not testify, wishing to do so?

Are there any further questions or comments?

If not, should anyone wish to provide further input, written testimonies will be accepted until Friday, September 5, 2008.

Please send the written testimonies to:

Administrator

DLNR Division of State Parks

1151 Punchbowl St., Room 310

Honolulu, HI 96813

The address is also given in the Notice of Public Hearing.

DECISION MAKING ON PROPOSAL

After consideration of your input tonight and other testimonies received by September 5, 2008, if there are no substantive changes to the rules, we will bring the matter before the Board of Land and Natural Resources at one of their subsequent public meetings for their decision.

Thank you for coming tonight

The public hearing is adjourned.      Time: \_\_\_\_\_ p.m.